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Department for EAP/MLS DSmith, DRL/IL MJunk, GTIP CChan-Downer, and
DOL/ILAB for Brandie Sasser

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SUBJECT: GOVERNMENT RESPONDS TO CRITICISMS OF MIGRANT WORKER
REGISTRATION PROGRAM, BUT PROBLEMS REMAIN

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Ref: Bangkok 1376 (Thai Government Plans Migrant Amnesty)

¶1. (SBU) Summary: In July of this year, the Thai government began implementing an amnesty program for illegal migrant workers in Thailand. Employed migrants from Laos, Cambodia, and Burma may apply for temporary work permits and must have their nationality verified by their government. Those who fail to regularize their status through participation in the program will be subject to deportation. Observers in civil society and some of Bangkok's resident UN agencies acknowledge the program as a positive step taken by the Royal Thai Government (RTG) to protect migrants by bringing them into the formal labor market, with related benefits such as access to health insurance. Nonetheless, the Thai government's implementation of the program has been met by criticism: poor communication to migrant communities, under-regulation of private companies involved, high fees, and unrealistic deadlines, among others. The RTG has modified aspects of the program to benefit migrants in response to media and NGO criticism, but problems remain. Ultimately, even the critics agree the Burmese government, by its refusal to allow nationality verification within Thailand, is to blame for a system that could lead to the exploitation of migrants. Nonetheless, there are at this point no known cases of severe exploitation (including human trafficking) of participating migrants. End Summary.

¶2. (SBU) Comment: This migrant worker amnesty/registration program represents the RTG's latest effort to deal with an illegal immigration problem largely inevitable given that Thailand's generally open economy and society is surrounded by much poorer and more repressive neighboring countries. We will continue to stay in close contact with government officials to encourage continued flexibility in the implementation of its plans and guard against the possibility that poor implementation could lead to exploitation of migrant workers. End comment.

¶3. (SBU) In July 2009, the RTG began implementing a massive worker registration/amnesty program. Originally scrapped over concerns about protecting jobs for Thai workers during the global economic crisis, the amnesty went forward after surveys showed there were many jobs Thai workers still were not willing to fill. This latest effort to regularize its migrant work force is proceeding in accordance with Memoranda of Understanding (MOU) with the governments of Cambodia, Laos, and Burma. The amnesty covers irregular workers from those three countries employed in specific sectors of the economy (e.g., those who entered Thailand illegally and who may or may not have work permits depending on whether they participated in the last amnesty in 2004 and have since renewed their work permit). Speaking of the initiative on October 5, Prime Minister Abhisit Vejjajiva noted, "We realize that the most

effective way to protect these migrants is to legalize their status and bring them into the formal labor market," according to the media.

¶4. (SBU) Despite this latest attempt to effectively and humanely deal with its complex, illegal immigration problem, the Thai government's implementation of the amnesty program continues to draw criticism. (Note: reftel provides background on the history of Thailand's migrant worker amnesty programs and an explanation of the rationale behind this latest round. End note.). Concerns within the migrant labor community (including a fear of deportation, exploitation, or both) had led to a proliferation of rumors and unofficial information about the nature of the registration program. Through a series of formal meetings and informal conversations with Thai government officials, Post has sought to clarify details of the amnesty program and has advocated for continued improvement in its implementation. Post has also been in close, continual contact with interested non-governmental organizations and UN agency representatives in Bangkok.

The Complex Process Explained

¶5. (U) The amnesty program entails a multi-step process, including verification by foreign governments of the nationality of participating migrant workers. As detailed in reftel, employers must first register their illegal workers with the Thai Ministry of Interior (for a fee of 80 baht per person or approximately USD 2.40). Workers must then receive a health check (600 baht) and purchase mandatory health insurance (1,300 baht) through the Ministry of Health so that they may have access to the government-sponsored healthcare system.

¶6. (SBU) The Ministry of Labor then issues workers, for a fee, a work permit that affords them the right to temporarily stay and work in Thailand (permits are available for periods of three months, six

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months, one year, or two years for fees on a sliding scale: 450 baht for three months, 900 baht for six months, 1,800 baht for one year, and 3,600 baht for two years). The permit does not afford permanent residence rights; registered workers are subject to deportation when their permit expires. The Thai government's intent, as per the MOUs with its neighbors, is for all future migrant workers to enter Thailand through a formal labor importation process. (Note: According to a 2009 report by the International Organization for Migration (IOM), in 2008 1.8 million migrants were working in Thailand, of whom only half a million held work permits. Of the total 535,732 registered in 2007, 91 percent were from Burma. End Note).

¶7. (SBU) Nationality verification is required for all workers from Laos, Cambodia, and Burma who have not yet had their citizenship confirmed by their government, even if the worker already possesses a work permit. At present the deadline for completing this step is February 28, 2010, after which, should the plan hold, non-Thai migrant workers in Thailand would be either regularized or subject to deportation. Citizens of Laos and Cambodia have generally completed this step through processing centers (static and mobile) set up by their governments throughout Thailand with budget support from the Thai government. Those from Burma must complete this step through one of three centers established along the Thai-Burmese border at: Ranong (Thailand) - Koh Song (Burma), Mae Sot (Thailand) - Myawadi (Burma), and Mae Sai (Thailand) - Ta Kee Lek (Burma). Establishing the Burmese centers just over the border in Burma was a compromise after years of negotiations between the Thai and Burmese governments. (Thailand wanted Burma to agree to an in-Thailand system such as Laos and Cambodia agreed to. Burma wanted migrants to travel back to their home areas within Burma.) Prior to traveling to one of the centers, Burmese migrants provide applications with biographic data to the Thai government which then forwards the information to the government of Burma. Once the GOB verifies the information, it informs the Thai government, which then informs employers who often arrange for the transport of their workers to one of the centers.

¶8. (SBU) The Thai Labor Ministry then makes an appointment for the

migrant at the border processing centers and provides the migrant with papers authorizing him/her to travel to the border (migrant workers are not generally allowed to travel outside their province of employment without authorization). On the day of the appointment, the worker receives a "delivery letter" at the Thai border center and reports to Burmese authorities at the accompanying Burmese center. Burmese authorities then verify the nationality of the migrant and provide them with a temporary passport (costing 3,000 Burmese kyat, equivalent to USD 3). With passport in hand, the worker crosses back into Thailand and purchases a visa (500 baht/USD 15) as well as an additional work permit to cover any time not already covered by their existing permit.

Mounting Concerns

19. (SBU) The registration process, and especially the accompanying nationality verification process for Burmese migrants, has drawn criticism from civil society organizations. On September 16, a group of three organizations sent a joint letter of concern to the United Nations Special Rapporteur on the Human Rights of Migrants. (Note: Laboff passed it on September 18 to counterparts in the Ministries of Foreign Affairs, Labor, and Social Development (MSDHS). End Note). The same organizations, which includes the State Enterprise Workers Relations Confederation (Thailand's largest public laborer organization), sent a complaint letter (with recommendations) to Prime Minister Abhisit on October 5. In an October 30 meeting with LabOff, a grass-roots migrant labor activist who played a major role in developing the letter summarized his major concerns and recommendations as follows:

- Information: the Thai government has done a poor job of providing information on the amnesty program directly to migrant workers, relying instead on employers and provincial government officials to relay the information to them. In the absence of authoritative information regarding the process and its associated fees, migrants are more prone to over-charging and potentially other forms of exploitation. The Thai government should provide improved information to migrants more widely, especially in the Burmese language.

- Brokers/facilitators: the requirement that Burmese migrants must travel to the Thai-Burma border encourages the use of private firms by employers and migrants to assist them in completing the nationality verification process. The firms are under-regulated, thereby putting migrants at risk of exploitation via over-charging or, at worst, human trafficking. Private firms involved in the process should be better regulated.

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- Fees: migrant workers generally earn, at best, minimum wage (which varies by province but ranges from approximately 148 to 203 baht per day). As such, fees associated with the amnesty process are a burden on migrants who will likely be held responsible for the full cost of their processing. This is especially true if migrants are held responsible for the costs of labor brokers, which reportedly charge between 4,000 to 10,000 baht for services (e.g., round-trip transportation to the border centers, assistance with filling out forms, etc.). Fees should therefore be lowered and capped.

- Deadline and Deportation: While approximately one million migrants have registered with the Ministry of Interior and approximately 850,000 have applied for renewed or new work permits, only a few thousand Burmese migrants have successfully completed the nationality verification process. With the February 2010 deadline fast approaching, it is clear that it only a relative handful of migrants will be able to complete the nationality verification process before it arrives. As such, the deadline should be extended and migrants who have begun the process should not be subject to deportation.

10. (SBU) The expressions of concern by civil society organizations have led others to take notice. Local press has run articles and opinion pieces critical of nationality verification in recent weeks. In addition, representatives of the United Nations anti-human trafficking project (UNIAP) and International Organization for

Migration (IOM) told econoff on October 29 that the United Nations will be looking at the issue. They confirmed that the UN Thematic Working Group on International Migration will undertake research on the nationality verification process with the goal of providing recommendations to the Thai government on how to improve it.

Thai Response to Realities and Criticism

¶11. (SBU) Acknowledging the slow pace of progress of the illegal worker amnesty, and in light of the concerns expressed about it, Thai authorities have been taking steps to modify the program. A MOL Department of Employment (DOE) representative confirmed to us October 6 that the DOE had forwarded a proposal to the Thai cabinet to extend the deadline for work permit applications to allow migrants more time to apply (the previous deadline passed on August 29). DOE also recommended that the children of migrant workers be allowed to register as dependents of workers (spouses need to apply separately for work permits). In a meeting on October 27, DOE Director General Jirasuk Sugandhajati explained to Embassy officers that the cabinet had not yet taken up the recommendations for decision but hopefully would soon do so. In response to our statement of concern over the Burmese nationality verification and its February 28 deadline in particular, the Director General noted Thai authorities were considering an extension and would determine whether to do so as the deadline grows nearer. (NOTE: we spoke again of this matter on November 3 to a DOE official who explained that in order to estimate how many Burmese migrants intend to complete their nationality verification, the MOL has asked migrants to submit by November 20 a form documenting their intent. It is unclear whether migrants that do not do so will be allowed to complete the process. End Note).

¶12. (SBU) In the same meeting, the Director General also responded to our questions on the use of private firms to facilitate the nationality verification of Burmese and the fees associated with the amnesty process in general. While not required, employers (and migrants) can use the services of private firms, he explained. While the Thai government has not as a matter of policy recommended any firm over another, it has communicated to the Government of Burma (and provincial level MOL offices) the bona fides of at least three firms after the Burmese government inquired about them. With regard to fees, the Thai government has not sought to cap the fees such companies charge but instead explained that market competition will help control costs since employers and workers will naturally contract with those companies providing the best services for the lowest fees (a DOE employee also noted there are no legal grounds for the government to set prices for private services in this area). However, the DG explained that, recognizing the difficulty migrants may have in covering fees, the Labor Minister issued a regulation lowering the visa fee for Burmese going through the nationality verification process from 2,000 to 500 baht (the regulation went into force on October 27). Stating that employers (and not just proponents of workers) have raised complaints with him, DG Jirasuk noted cases in which employers have put out money for laborers to register only to have the laborers quit soon after.

¶13. (SBU) In response to our statement of concern that Burmese migrants do not appear to have full and authoritative information on the nationality registration process, the DG noted that, upon his

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recommendation after observing the process at the Mae Sot center, the Ministry would soon distribute to employers and provincial DOE offices a manual on the process with improved information on the steps it entails, the forms and other documents it requires, and the government fees. Showing us a copy of the draft manual, he noted it will be available in Thai, Burmese, and English.

Improvements to Program Not Likely Enough

¶14. (SBU) Observers have noted the positive steps taken by the Thai authorities to modify the registration/nationality verification process to benefit migrant workers. When queried by Laboff October 29 and 30, both IOM and civil society representatives acknowledged that the amnesty program ultimately should improve the rights of all workers in Thailand. They pointed to the lowering of fees,

inclusion of child dependents, and extension of the deadline for work permits as positive moves for which the Thai government should be credited. One activist noted another example of Thai authorities acting responsively to civil society concerns: the apparent policy reversal by the Ministry of Transportation (made public October 30) to change existing policy and allow migrant workers to both register ownership of motorcycles and apply for drivers licenses. He also noted that Ministry of Labor offices at the provincial level have organized buses to assist the transport of migrants to border areas.

As such, even some Burmese ethnic minorities have completed the full amnesty process and are now enjoying the benefits of having done so (e.g., the ability to travel more freely, access to health care, etc.). Importantly, when asked whether they are aware of any confirmed cases of severe exploitation (such as human trafficking) among the migrants who are participating or have participated in the amnesty program, no one with whom we spoke was aware of any.

¶15. (SBU) Nonetheless, observers, and especially migrant labor advocates, remain concerned. They point out that uncertainty within the migrant labor community - and particularly among Burmese ethnic minorities - is high, and that lack of clarity will likely keep many from completing the nationality verification process. One contact characterized the Thai government's implementation of the amnesty program to date as "miserable" and that there remain enormous practical obstacles to successful completion of the program. He also noted with exasperation the apparent announcement of the November 20 filing deadline for the nationality verification intent form as proof that Thai authorities continue to make key decisions on the amnesty program without fully considering how they will be communicated to migrant workers and what impact the decisions will have on the workers' well-being.

Burma: The Heart of the Problem

¶16. (SBU) Perhaps the one point on which all with whom we have spoken are in full agreement is that the Government of Burma is to blame for the particular difficulties imposed on Burmese migrants in the migrant worker registration process. As our contacts explain it, the GOB's reported insistence on not allowing for the verification of its national's citizenship on Thai soil -- as is done for Laotians and Cambodians - required the development of a complex system that potentially creates opportunities for exploitation. As one civil society representative put it, "most all of the problems flow from there. Were Burmese centers opened within Thailand, everything else would fall into place." Unfortunately, all with whom we spoke are equally skeptical that the Burmese government would agree to change the system. As such, civil society organizations are targeting their criticism and recommendations at the Thai government as the only way to ease the burden on migrant workers and make them less vulnerable to exploitation.

¶17. (SBU) This cable was coordinated with Embassy Rangoon and Consulate Chiang Mai.